

## **Part 14**

### **Regulation of Metal Dealers**

#### **76-6-1401 Title.**

This part is known as "Regulation of Metal Dealers."

Renumbered and Amended by Chapter 187, 2013 General Session

#### **76-6-1402 Definitions.**

As used in this part:

- (1) "Catalytic converter" means a motor vehicle exhaust system component that reduces vehicle emissions by breaking down harmful exhaust emissions.
- (2) "Dealer" means:
  - (a) a scrap metal processor or secondary metals dealer or recycler, but does not include:
    - (i) junk dealers as defined in Section 76-6-1402;
    - (ii) solid waste management facilities as defined in Section 19-6-502; or
    - (iii) the following businesses that are authorized to accept delivery of used lead batteries for recycling under Sections 19-6-603, 19-6-604, and 19-6-605:
      - (A) retailers;
      - (B) wholesalers;
      - (C) battery manufacturers; and
      - (D) secondary lead smelters.
  - (b) a metals refiner.
- (3) "Ferrous metal" means a metal that contains significant quantities of iron or steel.
- (4) "Identification" means a form of positive identification issued by a state of the United States or the United States federal government that:
  - (a) contains a numerical identifier and a photograph of the person identified;
  - (b) provides the date of birth of the person identified; and
  - (c) includes a state identification card, a state driver license, a United States military identification card, or a United States passport.
- (5) "Junk dealer" means all persons, firms, or corporations engaged in the business of purchasing or selling secondhand or castoff material, including ropes, cordage, bottles, bagging, rags, rubber, paper, and other like materials, but not including regulated metal.
- (6) "Local law enforcement agency" means the law enforcement agency that has jurisdiction over the area where the dealer's business is located.
- (7) "Metals refiner" means an individual or business that refines or melts any regulated metal, but does not include an individual or business that primarily uses ore, concentrate, or other primary materials in refining, melting, or producing any regulated metal.
- (8) "Nonferrous metal":
  - (a) means a metal that does not contain significant quantities of iron or steel; and
  - (b) includes copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.
- (9)
  - (a) "Regulated metal" means any item composed primarily of nonferrous metal, except as provided in Subsection (9)(c).
  - (b) "Regulated metal" includes:
    - (i) aluminum, brass, copper, lead, chromium, tin, nickel, or alloys of these metals, except under Subsection (9)(c), and lead that is a part of an automotive or industrial lead battery;

- (ii) property that is a regulated metal and that is owned by, and also identified by marking or other means as the property of:
  - (A) a telephone, cable, electric, water, or other utility; or
  - (B) a railroad company;
- (iii) unused and undamaged building construction materials made of metal or alloy, including:
  - (A) copper pipe, tubing, or wiring; and
  - (B) aluminum wire, siding, downspouts, or gutters;
- (iv) oil well rigs, including any part of the rig;
- (v) nonferrous materials, stainless steel, and nickel; and
- (vi) irrigation pipe.
- (c) "Regulated metal" does not include:
  - (i) ferrous metal, except as provided in Subsection (9)(b)(ii) or (iv);
  - (ii) household-generated recyclable materials;
  - (iii) items composed wholly of light iron or sheet steel;
  - (iv) aluminum beverage containers; or
  - (v) containers used solely for containing food.
- (10) "Scrap metal processor" means any person:
  - (a) who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel, or nonferrous scrap into prepared grades; and
  - (b) whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.
- (11) "Secondary metals dealer or recycler" means any person who:
  - (a) is engaged in the business of purchasing, collecting, or soliciting regulated metal; or
  - (b) operates or maintains a facility where regulated metal is purchased or kept for shipment, sale, transfer, or salvage.
- (12) "Suspect metal items" are the following items made of regulated metal:
  - (a) manhole covers and sewer grates;
  - (b) gas meters and water meters;
  - (c) traffic signs, street signs, aluminum street light poles, communications transmission towers, and guard rails;
  - (d) grave site monument vases and monument plaques;
  - (e) any monument plaque;
  - (f) brass or bronze bar stock and bar ends;
  - (g) ingots;
  - (h) nickel and nickel alloys containing greater than 50% nickel;
  - (i) #1 and #2 copper as defined by the most recent institute of Scrap Recycling Industries, Inc., Scrap Specifications Circular;
  - (j) unused and undamaged building materials, including:
    - (i) greenline copper;
    - (ii) copper pipe, tubing, or wiring; and
    - (iii) aluminum wire, siding, downspouts, or gutters;
  - (k) catalytic converters;
  - (l) automotive and industrial lead batteries; and
  - (m) wire that has been burned or that has the appearance of having been burned.

Amended by Chapter 108, 2015 General Session

**76-6-1403 Records of sales and purchases -- Identification required.**

- (1) Every dealer shall:
  - (a) require the information under Subsection (2) for each transaction of regulated metal, except under Subsection 76-6-1406(4); and
  - (b) maintain for each purchase of regulated metal the information required by this part in a written or electronic log, in the English language.
- (2) The dealer shall require the following information of the seller and shall record the information as required under Subsection (1) for each purchase of regulated metal:
  - (a) a complete description of the regulated metal, including weight and metallic description, in accordance with scrap metal recycling industry standards;
  - (b) the full name and residence of each person selling the regulated metal;
  - (c) the vehicle type and license plate number, if applicable, of the vehicle transporting the regulated metal to the dealer;
  - (d) the price per pound and the amount paid for each type of regulated metal purchased by the dealer;
  - (e) the date, time, and place of the purchase;
  - (f) the type and the identifying number of the identification provided in Subsection (2)(g);
  - (g) a form of identification that is a valid United States federal or state-issued photo ID, which includes a driver license, a United States passport, a United States passport card, or a United States military identification card;
  - (h) the seller's signature on a certificate stating that he has the legal right to sell the scrap metal or junk; and
  - (i) a digital photograph or still video of the seller, taken at the time of the sale, or a clearly legible photocopy of the seller's identification.
- (3) No entry in the log may be erased, deleted, mutilated, or changed.
- (4) The log and entries shall be open to inspection by the following officials having jurisdiction over the area in which the dealer does business during regular business hours:
  - (a) the county sheriff or deputies;
  - (b) any law enforcement agency; and
  - (c) any constable or other state, municipal, or county official in the county in which the dealer does business.
- (5) A dealer shall make these records available for inspection by any law enforcement agency, upon request, at the dealer's place of business during the dealer's regular business hours.
- (6) Log entries made under this section shall be maintained for not less than three years from date of entry.
- (7)
  - (a) The dealer may maintain the information required by Subsection (2) for repeat sellers who use the same vehicle to bring regulated metal for each transaction in a relational database that allows the dealer to enter an initial record of the seller's information and then relate subsequent transaction records to that initial information, except under Subsection (7)(b).
  - (b) The dealer shall obtain regarding each transaction with repeat sellers:
    - (i) a photograph of the seller; and
    - (ii) a signature from the seller.

Amended by Chapter 261, 2014 General Session

**76-6-1404 Notice to sellers of identification requirements.**

A dealer shall at all times maintain in a prominent place at the dealer's place of business, in open view to a seller of regulated metal, a clearly legible notice in not less than two-inch

high lettering that contains the following language: "A PERSON ATTEMPTING TO SELL ANY REGULATED METAL MUST PROVIDE IDENTIFICATION AS REQUIRED BY STATE LAW".

Renumbered and Amended by Chapter 187, 2013 General Session

**76-6-1405 Qualifications to sell to dealer.**

- (1) A dealer may not purchase regulated metal from a person younger than 18 years of age.
- (2) If the person is unable to comply with all the identification requirements of Subsection 76-6-1403(2), the dealer may not conduct a transaction of regulated metal with that person.

Renumbered and Amended by Chapter 187, 2013 General Session

**76-6-1406 Restrictions on the purchase of regulated metal -- Exemption.**

- (1) A dealer may conduct purchase transactions involving regulated metal only between the hours of 6 a.m. and 7 p.m.
- (2) Except when the dealer pays a government entity by check for regulated metal, the dealer may not purchase any of the following regulated metal without obtaining and keeping on file reasonable documentation that the seller is an employee, agent, or contractor of a governmental entity who is authorized to sell the item of regulated metal property on behalf of the governmental entity:
  - (a) a manhole cover or sewer grate;
  - (b) an electric light pole; or
  - (c) a guard rail.
- (3)
  - (a) A dealer may not purchase suspect metal without obtaining the information under Subsection (3)(b) identifying the owner of the suspect metal.
  - (b) The owner of the suspect metal shall provide in writing:
    - (i) the owner's telephone number;
    - (ii) the owner's business or residential address, which may not be a post box;
    - (iii) a copy of the owner's driver license; and
    - (iv) a signed statement that the person is the lawful owner of the suspect metal and authorizes the seller, identified by name, to sell the suspect metal.
  - (c) The dealer shall keep the identifying information provided in Subsection (3)(b) on file for not less than one year.
- (4) Transactions with businesses that have an established account with the dealer are exempt from the requirements of Subsections (2) and (3) if the business holds a valid business license, and:
  - (a)
    - (i) the dealer has on file a statement from the business identifying those employees authorized to sell all metals to the dealer; and
    - (ii) the dealer conducts regulated metal transactions only with those identified employees of the business and records the name of the employee when recording the transaction;
  - (b) the dealer has on file reasonable documentation from the business that any person verified as representing the business as an employee, and whom the dealer has verified is an employee, may sell regulated metal; or
  - (c) the dealer makes payment for regulated metal purchased from a person by issuing a check to the business employing the seller.

Renumbered and Amended by Chapter 187, 2013 General Session

**76-6-1407 Violation by dealer -- Penalty -- Local regulation not less stringent.**

- (1)
  - (a)
    - (i) Any dealer who violates any of the provisions of this part is guilty of a class C misdemeanor.
    - (ii) Any dealer who is convicted of a class C misdemeanor under this section is subject to a mandatory fine of no less than \$750.
  - (b)
    - (i) A violation of Subsection (1)(a) that occurs after the defendant has been convicted of a violation of Subsection (1)(a) is a class A misdemeanor.
    - (ii) Any dealer who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than \$2,500.
- (2) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in this part.
- (3) This section does not impair the authority of a county or municipality to revoke or deny any business license or permit required by that county or municipality regulating the authority to sell, purchase, or possess metal, including the revocation or denial of a business license or permit based on a violation of this part.
- (4) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Amended by Chapter 316, 2016 General Session

**76-6-1408 Falsification of seller's statement to dealer.**

- (1)
  - (a) Any seller who, in providing any information as required by this part in selling, offering, or attempting to sell regulated metal willfully makes a false statement or provides any untrue information, is guilty of a class B misdemeanor.
  - (b) Any seller who is convicted of a class B misdemeanor under this section is subject to a mandatory fine of no less than \$1,000.
- (2)
  - (a) A violation of Subsection (1) that occurs after the defendant has been convicted of a violation of Subsection (1) is a class A misdemeanor.
  - (b) Any seller who is convicted of a class A misdemeanor under this section is subject to a mandatory fine of no less than \$2,500.

Amended by Chapter 316, 2016 General Session

**76-6-1409 Hold on stolen regulated metal property -- Hold notice.**

- (1) If a law enforcement agency has reasonable cause to believe that items of regulated metal in the possession of a dealer are stolen, the law enforcement agency may issue a written hold notice. The hold notice shall:
  - (a) identify those items of regulated metal alleged to be stolen and subject to hold; and
  - (b) inform the dealer of the restrictions imposed on the regulated metal property under Subsection (2).
- (2) For 60 days after the date of receiving a hold notice, a dealer may not process or remove from the dealer's place of business any regulated metal identified in the hold notice, unless the

property is released earlier by the law enforcement agency or by order of a court of competent jurisdiction.

- (3) On the expiration of the hold notice period, the hold is automatically released, and the dealer may dispose of the regulated metal, unless otherwise directed by a court of competent jurisdiction.

Renumbered and Amended by Chapter 187, 2013 General Session